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No. 83-620

In the Supreme Court of the United States

OCTOBER TERM, 1983

UNITED STATES OF AMERICA, PETITIONER

v.

LARRY WAYNE RODGERS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED OCTOBER 13, 1983
CERTIORARI GRANTED DECEMBER 5, 1983

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RELEVANT DOCKET ENTRIES IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI

Sept. 2, 1982	Indictment in two (2) counts
Sept. 2, 1982	Request for warrant of arrest Order for warrant of arrest Warrant issued and delivered to U.S. Marshal
Oct. 28, 1982	U.S. Marshal's return of warrant showing that defendant was arrested on October 15, 1982.
Nov. 15, 1982	Magistrate's courtroom minute sheet Omnibus hearing held on November 15, 1982 and report filed. Upon arraignment on November 15, 1982 deft. entered a plea of not guilty to the indictment. Bail fixed at $10,000.00 on November 8, 1982 which was not made and defendant committed to custody of U.S. Marshal
Nov. 16, 1982	Motion to dismiss for failure to state an offense with suggestions
Nov. 17, 1982	Order of reference to Chief United States Magistrate Calvin K. Hamilton
Nov. 17, 1982	Order setting an evidentiary hearing for 9:30 a.m., Tuesday, November 23, 1982
Nov. 17, 1982	Notice of pretrial conference set for 4:50 p.m., Wednesday, December 1, 1982 before the Honorable Calvin K. Hamilton
Nov. 19, 1982	Order that the evidentiary hearing on defendant's motion to dismiss the indictment shall be continued for a period of one week and is hereby set for 9:30 a.m., Tuesday, November 30, 1982. All stipulations of fact should be filed by that date.
Nov. 23, 1982	Response of government in opposition to the motion to dismiss for failure to state an offense with suggestions
Nov. 30, 1982	Notice of custody
Dec. 8, 1982	Report and recommendation
Dec. 8, 1982	Stipulation of facts in connection with defendant's pretrial motion to dismiss indictment
Dec. 10, 1982	Order that deft's. motion to dismiss the indictment is granted.
Dec. 10, 1982	Notice of appeal filed by plaintiff. Notice transmitted to Court of Appeals.

Dec. 10, 1982	Appearance bond in the amount of $2,500.00.
Dec. 14, 1982	Amended order specifying methods and conditions of release.
Dec. 16, 1982	Designation of Record and Statement of Issues on appeal by pltf./appellant.
Dec. 17, 1982	Designation of record by defendant.
Jan. 7, 1983	Transcript of proceedings taken on 12/03/82.
Aug. 16, 1983	Judgment from U.S. Court Of Appeals. ORDERED and adjudged that the order of the District Court in this cause be, and the same is hereby, affirmed in accordance with the opinion of this Court.
Aug. 16, 1983	Opinion from U.S. Court of Appeals.

RELEVANT DOCKET ENTRIES IN THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Dec. 13, 1982	Docketed Case.
Dec. 13, 1982	Certified copies of notice of appeal; docket entries; and order rec'd from District Court.
Dec. 13, 1982	Order: Mr. Raymond C. Conrad, Federal Public Defender for Western MO is hereby appointed to represent appellee in all matters.
Dec. 13, 1982	Briefing Schedule: Clerk's Record 1/4/83; Transcript 1/3/83; Brf. Aplnt 1/10/83; Brf. Aplee 1/31/83.
Dec. 20, 1983	Appearance for appellant.
Dec. 20, 1983	Appearance for appellee.
Jan. 14, 1983	Brief Appellant.
Feb. 2, 1983	Brief Appellee.
Mar. 14, 1983	Transferred to April session.
Apr. 12, 1983	Appearance for appellant
Apr. 12, 1983	Argued & submitted to Judges Lay, McMillian & J.R. Gibson. Cynthia Clark for Appellant United States. R. Steven Brown for Appellee Larry Wayne Rodgers.
May 9, 1983	Opinion by Law (published)
May 9, 1983	Judgment: Order of District Order is affirmed in accordance with opinion
June 27, 1983	Petition of appellant for rehearing with suggestions for rehearing en banc.
July 25, 1983	Order: Petition for appellant for rehearing and rehearing en banc is denied. Judges Ross and Fagg would grant the petition.
Aug. 12, 1983	Mandate issued.
Aug. 19, 1983	Receipt for mandate.
Sept. 20, 1983	Letter from Clerk of Supreme Court advising that an ext. of time has been granted by Mr. Justice Blackmun to and including Oct. 23, 1983.
Oct. 28, 1983	Notice of filing of petition for writ of certiorari as case No. 83-620 as of Oct. 13, 1983.
Dec. 7, 1983	Order of Supreme Court granting certiorari in case No. 83-620, dated December 5, 1983.

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF MISSOURI
WESTERN DISTRICT

UNITED STATES OF AMERICA, PLAINTIFF,

v.

LARRY WAYNE RODGERS, DEFENDANT.

Violation: Counts One and Two
18 U.S.C. § 1001
NMT 5 years and/or $10,000

INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE
(18 U.S.C. § 1001; NMT 5 years and/or $10,000)

On or about the 3rd day of June, 1982, in the Western District of Missouri, LARRY WAYNE RODGERS, wilfully and knowingly did make a false, fictitious and fraudulent statement and representation as to material facts in a matter within the jurisdiction of the Federal Bureau of Investigation, Department of Justice, an agency of the United States, in that LARRY WAYNE RODGERS stated and represented that his wife, Ivy Lynn Gilmore, had been abducted and that he had received a ransom note, whereas in truth and fact, as he then well knew, Ivy Lynn Gilmore had not been abducted and he had not received a ransom note; all in violation of Title 18, United States Code, Section 1001.

COUNT TWO
(18 U.S.C. § 1001; NMT 5 years and/or $10,000)

On or about the 15th day of June, 1982, in the Western District of Missouri, LARRY WAYNE RODGERS, wilfully and knowingly did make a false, fictitious and fraudulent statement and representation as to material facts in a matter within the jurisdiction of the United States Secret Service, Department of the Treasury, an agency of the United

States, in that LARRY WAYNE RODGERS stated and represented that Ivy L. Gilmore had threatened to kill the President of the United States, whereas in truth and fact, as he then knew, Ivy L. Gilmore had not made a threat to kill the President of the United States; all in violation of Title 18, United States Code, Section 1001.

A TRUE BILL.

_____

Foreman of the Grand Jury

_____

ROBERT E. LARSEN
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

No. 82-00127-01-CR-W-6

UNITED STATES OF AMERICA, PLAINTIFF,

v.

LARRY WAYNE RODGERS, DEFENDANT.

STIPULATION OF FACTS IN CONNECTION WITH DEFENDANT'S PRETRIAL MOTION TO DISMISS INDICTMENT

Come now the parties, in person and by counsel, and hereby stipulate and agree that the following facts are true and correct for the purpose of the defendant's pretrial motion to dismiss the indictment for failure to allege an offense, and the government's response to that motion.

COUNT ONE

The Kansas City Federal Bureau of Investigation Office first became involved with this case on June 2, 1982, when an individual who identified himself as Larry Gilmore (true name Larry Wayne Rodgers), called and spoke with Federal Bureau of Investigation (FBI) employee Special Clerk Sue Cavanaugh. Rodgers said that his wife, Ivy Lynn Gilmore, was seven months pregnant and had been missing for three weeks. He also claimed that she had been seen by a friend in Topeka, Kansas, sitting in a van at a stop light and that when this friend "hollered" at her, the van sped away. Rodgers claimed that the friend said his wife was all bruised up. Rodgers, at that time, gave no indication that his wife had been abducted, and therefore he was told that the FBI had no jurisdiction. He was told that he should contact the Missing Persons Bureau of the local police department. Rodgers then said that the Kansas City Missouri Police Department had refused to take his report saying that it was a domestic matter.

On June 2, 1982, Rodgers again called Special Clerk Cavanaugh and said his wife had disappeared while he was at church and claimed that there were people who had seen

his wife abducted. He further stated that Detective Dempsey of the Kansas City Kansas Police Department was working on the case. According to Rodgers, Dempsey intended to bring the FBI into the case.

Attempts by Special Clerk Cavanaugh to contact Detective Dempsey were unsuccessful on June 3, 1982. On June 4, 1982, Detective Dempsey called the FBI and said that Rodgers called him about five times a day. Dempsey said that Rodgers did make a missing persons report on Rodgers' wife, but that there was no evidence of abduction in this matter. Dempsey said Rodgers named five or six people who were suppose [*sic*] to give statements about his wife's abduction but, upon contact, these people told Detective Dempsey that they had seen nothing.

Rodgers called Special Clerk Cavanaugh again on June 4, 1982, and June 7, 1982 about his wife's disappearance.

On June 5, 1982, at approximately 10:30 p.m., Special Clerk Paul Allen received a call from Rodgers, who gave an address of 4411 Puckett, Kansas City, Kansas. During this conversation, Rodgers said that on May 16, 1982, his wife, Ivy, disappeared from home and had not been heard from since. Rodgers said that the Kansas City Kansas Police Department was working on the case, which was assigned to Detective Dempsey. Rodgers also said that his brother-in-law, whom he did not identify, had received a ransom note on his door.

On June 7, 1982, Rodgers called the Topeka Kansas FBI Resident Agency and spoke with Special Clerk Ron Compton with a further version of the alleged kidnapping of his wife, claiming that notes had been left on his door demanding money. Rodgers also told Compton that he had spoken with an FBI agent named Allen.

Based on the kidnapping complaint Rodgers had made to the Kansas City FBI Office, Special Agent Robert H. Meredith on June 7, 1982, contacted Detective Tom Dempsey of the Kansas City Kansas Police Department Homicide Division, who said that he had been working on the Gilmore case, however, he was of the opinion that it was not a legitimate kidnapping but a domestic situation. Dempsey said that he had checked all possible leads and

eventually surmised that Rodgers was lying and that his wife had in fact left him voluntarily. Dempsey said that he found many inconsistencies and conflicting statements on the part of Rodgers as well as a failure on the part of Rodgers' "witnesses to the kidnapping", to support Rodgers' story. In addition, on June 7, 1982, Special Agent Meredith attempted to locate Rodgers at 4411 Puckett, Kansas City, Kansas, and discovered that this is a nonexistent address.

On June 8, 1982, Special Agent Robert H. Meredith contacted Rodgers' grandmother, Mrs. Kroker. Kroker said that she believed Ivy ran away from Rodgers, since she had done so frequently in the past, and that Rodgers was extremely distraught and emotional. Mrs. Kroker explained that Ivy was seven months pregnant and that Rodgers was concerned with getting his child. She said that Rodgers' first wife and son had left him, and that he was afraid that he would be left alone again.

On June 9, 1982, Special Agent Meredith was contacted by a private investigator, Joan Brady, Security Services, Incorporated, 11800 West 63rd Street, Shawnee, Kansas. Brady said that Rodgers had come to her using the name Larry Johnson and said that he did not know where his wife was and he wanted her to find his wife. Brady recalled that she thought the Rodgers were having marital problems. Brady received a call from Rodgers the morning of June 9, 1982, wherein he stated that he did not want the investigator to tell the FBI, but he felt his sister, Debbie Hickcox, knew the whereabouts of his wife, Ivy.

On October 15, 1982, Larry Wayne Rodgers was arrested by the FBI at Houston, Texas.

After being advised of his rights, Rodgers said that he was guilty of furnishing false information to the Federal Bureau of Investigation.

COUNT TWO

On June 15, 1982, Larry Wayne Rodgers, identifying himself only as "Bob", telephoned the Kansas City Secret Service Field Office, 811 Grand Avenue, Kansas City, Missouri, and spoke to Special Agent Charles Quinn.

Rodgers stated that earlier this date he had found a note on his doorstep. The note was allegedly composed of letters and words cut from newspapers and contained the statement, "We will murder the President". Rodgers said the note was signed "Ivy L. Gilmore", his estranged girlfriend. Rodgers also stated that Gilmore had run off with a "gang" and believed that she had been induced by the gang to join in an assassination plot. Rodgers inquired whether the Secret Service would investigate and attempt to locate Ivy Gilmore. Special Agent Quinn instructed Rodgers to bring the threat letter to the Kansas City Field Office later on that day, however, Rodgers failed to appear.

As a direct consequence of Rodgers' telephone call, an official Secret Service investigation was initiated on June 15, 1982. The purpose of this investigation was to determine the danger to the President posed by Ivy L. Gilmore and/or Larry Wayne Rodgers.

On June 16, 1982, Larry Wayne Rodgers, identifying himself as "Ben Johnson" telephoned the Kansas City Secret Service Office. The call was received after normal working hours and was automatically transferred to the Truman Protective Division. Rodgers told Special Agent Howard Jordan that he was the person who had spoken to Special Agent Quinn on June 15, 1982. He stated that he still had the letter signed by Ivy Gilmore, which contained a threat to kill the President, and was going to show the letter to Special Agent Quinn.

On June 17, 1982, Larry Wayne Rodgers, identifying himself as "Ben" telephoned the Kansas City Secret Service Office in an attempt to contact Special Agent Quinn. Special Agent Quinn telephoned Rodgers back, at the residence of Vickie Jackson, and Rodgers again stated that the purported threat letter existed but had been mislaid in his brother's car.

On June 18, 1982, Special Agent Quinn interviewed Debra J. Hickcox, Rodgers' sister, who advised that Ben Hunter was an alias used by Larry Wayne Rodgers and that Vickie Jackson was her co-worker and friend who had allowed Rodgers to stay at her residence. Hickcox provided

further information regarding Rodgers' background and identified Ivy L. Gilmore as Rodgers' estranged wife.

On June 18, 1982, Secret Service Special Agents James D. Moore and G. Wesley Dunlap interviewed Ivy L. Gilmore (true name Ivy Lynn Trinidad Bartley) at her residence in Phoenix, Arizona, Gilmore denied that she had been kidnapped, denied that she had run off with a gang, and denied that she had ever threatened the President in any way. She identified Larry Wayne Rodgers as her estranged husband and said she had left the Kansas City area on May 15, 1982, to get away from him.

Also, on June 22, 1982, Secret Service Special Agent G. Wesley Dunlap personally interviewed Larry Wayne Rodgers at the Phoenix Secret Service Office. After having been advised of his "Miranda" rights, and having waived these rights, Rodgers made verbal and written admissions that he had telephoned Special Agent Quinn and reported a fictitious threat against the President. He also admitted previously concocting a false kidnap plot, which was investigated by the Federal Bureau of Investigation. Rodgers said the object of these false reports was to induce the federal agencies to locate Ivy Gilmore. Rodgers further admitted that, pursuant to his scheme to involve the Secret Service, he constructed a phony letter out of cut out words which contained a threat by Ivy Gilmore to kill the President. Rodgers said he had left the note in Kevin Rodgers' car.

Continuing on June 22, 1982, Special Agents Quinn and Guerber recovered a note constructed of cut out words from Larry Wayne Rodgers' stepmother, Georgia W. Rodgers. The note contained an apparent threat against the President by Ivy Gilmore. Mrs. Rodgers said she had received this note from Marjorie F. Kroker. Mrs. Kroker said she had received it from Kevin Rodgers. Kevin Rodgers said it was the same note he had found in his car on June 18, 1982, as previously described.

CONCLUSION

This stipulation of facts is offered by the parties only for the purpose of the pretrial motion to dismiss the indictment

for failure to allege an offense, and shall be used in connection with this motion and any appeals that may arise from that motion.

Respectfully submitted.

ROBERT G. ULRICH
United States Attorney

BY:

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Assistant Federal Public Defender
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LARRY WAYNE RODGERS, *Defendant*

Supreme Court of the United States

No. 83-620

UNITED STATES, PETITIONER,

v.

LARRY WAYNE RODGERS

ORDER ALLOWING CERTIORARI. Filed December 5, 1983.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted.